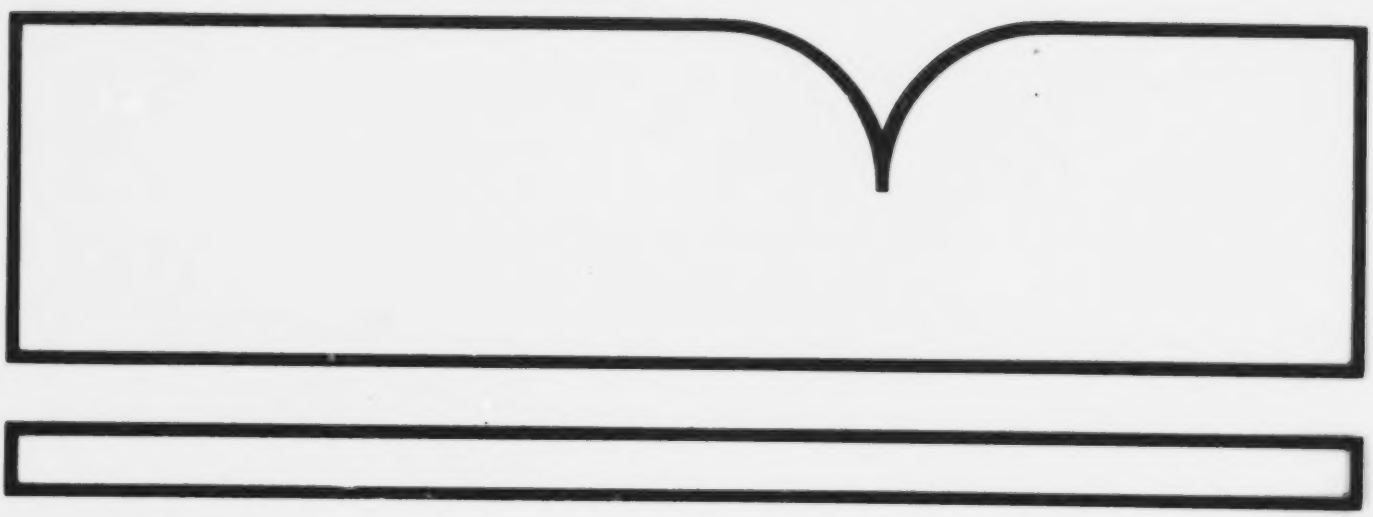
PB90-249582

# Redelegation of Authority under CERCLA and SARA

(U.S.) Environmental Protection Agency, Washington, DC

25 May 88



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13. Abstract: Presents a complete set of new and revised redelegations of authority regarding activities under CERCLA and SARA. Published under the singature of the AA/SWER, it is the current and definitive delegations document for these authorities. Attachment A contains redelegations of authority to take specific actions. Attachment B designates responsibilitie s to exercise concurrence, consult, or receive notice.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

MAY 25 1988

OFFICE OF
SOLID WASTE AND EMERGENCY RESPONSE

OSWER Directive 9260.5-01

MEMORANDUM

SUBJECT: Redelegation of Authority Under CERCLA and SARA

FROM: J. Winston Porter
Assistant Administrator

TO: Henry L. Longest II, Director
Office of Emergency and Remedial Response

Jonathan Z. Cannon, Director
Office of Waste Programs Enforcement

James Makris, Director
Preparedness Staff

Thomas Devine, Director
Office of Program Management and Technology

On September 14 and 21, 1987, the Administrator signed new and revised delegations of authority regarding activities under CERCLA as amended by the Superfund Amendments and Reauthorization Act (SARA). The purpose of this memorandum is to redelegate selected authorities to the Directors of the Offices of Emergency and Remedial Response, Waste Programs Enforcement, Program Management and Technology, and to the Director of the Preparedness Staff in order to facilitate more efficient program operation.

I want to emphasize the importance of continued cooperative consultation between the offices undertaking these authorities. Consultation between OWPE and OERR prior to agreements in principle for settlements involving mixed work or preauthorization will contribute to careful review of such proposals, since both OWPE approval of settlements and and OERR approval of use of Fund monies are required. In addition, OERR and OWPE should mutually consult so that there is a consistent overall approach taken in site assessment, including public health assessments done by ATSDR, public health evaluations, and endangerment assessments.

Attachment A contains redelegations of authority to undertake specific actions. Attachment B designates responsibilities to exercise concurrence, to consult, or to receive notice. You may authorize a designee to act on your behalf with regard to any of your concurrence, consultation, and notice responsibilities.

The redelegations and designations contained in this document supersede any and all previous redelegations and designations.

Attachments

CERCLA/SARA
REDELEGATIONS OF AUTHORITY
FROM THE ASSISTANT ADMINISTRATOR
FOR SOLID WASTE AND EMERGENCY RESPONSE

TABLE OF CONTENTS

REDELEGATION OF AUTHORITY (ATTACHMENT A)


| | |
|---|---|
| R-14-6 | Inspections, Sampling, Information Gathering, Subpoenas and Entry for Response |
| R-14-7 | Combination of Noncontiguous Facilities for Response Purposes |
| R-14-8-A | Federal-Lead Studies and Investigations Related to Response Actions |
| R-14-8-B | Studies and Investigations Related to Cost Recovery and Enforcement Decisions; Special Notice |
| R-14-9 | Claims Asserted Against the Fund |
| R-14-10-A | State Technical Assistance |
| R-14-16 | Demand Letters |
| R-14-19 | Contractor Indemnification |
| R-14-21 | Agreements with other Federal Agencies |
| R-14-25 | Notification of Trustees |
| R-14-27 | Petitions for Reimbursement |
| R-14-28 | Federal Agency Hazardous Waste Compliance Docket |
| R-14-30 | Acquisition of Property |
| R-14-36 | Lead Contaminated Soil |
| R-14-37 | Reimbursement to Local Governments |
| R-14-38 | EPA Role in Department of Defense Environmental Restoration Program |
| R-8-33 | Selection and Performance of Federal Corrective Actions at Leaking Underground Storage Tanks |
| R-22-3 | Administrative Enforcement Actions |
| R-22-7 | Trade Secrets |

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE TO CONSULT,
OR TO RECEIVE NOTICE (ATTACHMENT B)

| | |
|---|---|
| R-14-1-A | Selection and Performance of Removal Actions Costing up to $2,000,000 |
| R-14-10-B | State Legal Assistance |
| R-14-12 | Civil Judicial Enforcement Actions |
| R-14-13-C | Emergency TROs |
| R-14-14-A | Determinations of Imminent and Substantial Endangerment |
| R-14-14-B | Administrative Actions Through Unilateral Orders |
| R-14-14-C | Administrative Actions Through Consent Orders |
| R-14-14-D | Cost Recovery Non-Judicial Agreements and Administrative Consent Orders |
| R-14-18-A | Alternative Treatment Technology Research, Development, Demonstration, and Training |
| R-14-24 | Grants for Technical Assistance |
| R-14-26 | Federal Lien |
| R-14-30 | Acquisition of Property |
| R-14-31 | Administration Penalty Actions |
| R-14-35 | List of Hazardous Substances and Toxicological Profiles |
| R-14-36 | Lead Contaminated Soil |
| R-14-38 | EPA Role in Department of Defense Environmental Restoration Program |
| R-22-1 | Civil Judicial Enforcement Actions |
| R-22-3 | Administrative Enforcement Actions |

REDELEGATION OF AUTHORITY

## THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

### R-14-6. Inspections, Sampling, Information Gathering, Subpoenas, and Entry for Response

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act as amended (CERCLA), to enter any vessel, facility, establishment, place, property or location for the purposes of inspections, sampling, information gathering and response actions; to carry out inspections, sampling, and information gathering; to require the production of information and documents; to issue subpoenas; to issue compliance orders for production of information and documents; to issue compliance orders for entry and inspection; to obtain and execute warrants to support this authority; and to designate representatives of the Administrator to carry out inspections, sampling, information gathering, and response actions.

2. TO WHOM REDELEGATED. The Director of the Office of Waste Programs Enforcement (OWPE) and the Director of the Office of Emergency and Remedial Response (OERR).

3. LIMITATIONS.

a. Authority for subpoenas and compliance orders is delegated only to the Director, OWPE. Other authorities are delegated to the Director, OERR for Fund-lead sites, and to the Director, OWPE for enforcement-lead sites.

b. The Director, OWPE must consult with the Assistant Administrator for Enforcement and Compliance Monitoring, or his/her designee, prior to issuing compliance orders regarding information gathering or compliance orders for entry and inspection, or issuing subpoenas, unless or until such consultation authority is waived by memorandum.

c. The Director, OWPE and the Director, OERR must consult with the Assistant Administrator for Enforcement and Compliance Monitoring or his/her designee prior to obtaining warrants.

d. The Director, OWPE and the Director, OERR must consult with the appropriate Regional Administrator or his/her designee prior to exercising these authorities.

4. REDELEGATION AUTHORITY. This authority may be redelegated.

5. ADDITIONAL REFERENCES.

a. Sections 104(e), 109(a), 109(b) and 122(e) of CERCLA.

b. Delegation 14-6, "Inspections, Sampling, Information Gathering, Subpoenas, and Entry for Response."

c. National Contingency Plan, 40 CFR 300.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-7. Combination of Noncontiguous Facilities for Response Purposes

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to treat two or more noncontiguous facilities that are related geographically or on the basis of threat as one for purposes of response actions.

2. TO WHOM REDELEGATED. The Director of the Office of Emergency and Remedial Response (OERR) and the Director of the Office of Waste Programs Enforcement (OWPE).

3. LIMITATIONS. Authority is delegated to the Director, OERR for Fund-lead sites and to the Director, OWPE for enforcement-lead sites.

4. REDELEGATION AUTHORITY. This authority may be redelegated.

5. ADDITIONAL REFERENCES.

a. Section 104(d)(4) of CERCLA.

b. Delegation 14-7, "Combination of Noncontiguous Facilities for Response Purposes."

c. Guidance on combination of noncontiguous facilities can be found in 48 FR 40663 September 8, 1983 and 49 FR 37076 September 21, 1984.

REDELEGATION OF AUTHORITY

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-8-A. Federal-Lead Studies and Investigations Related to Response Actions

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act as amended (CERCLA), to make determinations as to the necessity and appropriateness of studies and investigations necessary or appropriate to plan and direct response actions, with the exception of actions authorized under Delegation 14-4-A, "State-Lead Studies and Investigations Related to Remedial Actions," and to perform such studies and investigations in consultation with the State.

2. TO WHOM REDELEGATED. The Director of the Office of Emergency and Remedial Response (OERR) and the Director of the Office of Waste Programs Enforcement (OWPE).

3. LIMITATIONS.

a. Authority is delegated to the Director, OERR for Fund-lead sites and to the Director, OWPE for enforcement-lead sites.

b. This authority shall be exercised subject to the Administrator's management accountability system, and may be exercised only at sites which are contained in approved funding levels.

4. REDELEGATION AUTHORITY. This authority may redelegated to the Division Director level.

5. ADDITIONAL REFERENCES.

a. Sections 104, 116, 117, and 121 of CERCLA.

b. Delegation 14-8-A, "Federal-Lead Studies and Investigations Related to Response Actions."

c. National Contingency Plan, 40 CFR 300.

d. State Participation in the Superfund Program, February 1984, Volumes I and II, as amended.

e. Directives issued by the Assistant Administrator for Solid Waste and Emergency Response.

f. Strategic Planning and Management System is the Administrator's management accountability system.

REDELEGATION OF AUTHORITY

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA)

R-14-8-B. Studies and Investigations Related to Cost Recovery and Enforcement Decisions; Special Notice

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to make determinations as to the necessity and appropriateness of studies and investigations related to the recovery of response costs and the enforcement of the provisions of this Act, and to undertake such studies and investigations; and to make decisions, determinations, findings, notifications and non-binding allocations of responsibility under Section 122.

2. TO WHOM REDELEGATED. The Director of the Office of Emergency and Remedial Response (OERR) and the Director of the Office of Waste Programs Enforcement (OWPE).

3. LIMITATIONS. Authority is delegated to the Director, OERR for Fund-lead sites and to the Director, OWPE for enforcement-lead sites.

4. REDELEGATION AUTHORITY. This authority may be redelegated.

5. ADDITIONAL REFERENCES.

a. Sections 104, 106, 107 and 122 of CERCLA.

b. Delegation 14-8-B, "Studies and Investigations Related to Cost Recovery and Enforcement Decisions; Special Notice."

c. All applicable Agency guidance and directives.

d. See Delegation 14-6 for issuance of Section 104(e) requests.

REDELEGATION OF AUTHORITY

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA)

R-14-9. Claims Asserted Against the Fund

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to receive, evaluate, make determinations and preauthorize claims asserted against the Hazardous Substance Superfund. This authority is to include determining the amount of any award, authorizing payment, and making all other determinations necessary to process such claims.

2. TO WHOM REDELEGATED. The Director of the Office of Emergency and Remedial Response (OERR).

3. LIMITATIONS. Consultation with the Director of the Office of Waste Programs Enforcement is required on preauthorization involving potentially responsible parties (PRPs).

4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

5. ADDITIONAL REFERENCES.

a. Sections 111(a), 111(e), 112, and 122 of CERCLA.

b. Delegation 14-9, "Claims Asserted Against the Fund."

c. National Contingency Plan, 40 CFR 300.

REDELEGATION OF AUTHORITY.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-10-A. State Technical Assistance

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to provide to a State or political subdivision acting on behalf of the Agency, technical assistance in the administration and enforcement of any contract (or subcontract) for response actions.

2. TO WHOM REDELEGATED. The Director of the Office of Emergency and Remedial Response (OERR) and the Director of the Office of Waste Programs Enforcement (OWPE).

3. LIMITATIONS. Authority is delegated to the Director, OERR for Fund-lead sites and to the Director, OWPE for enforcement-lead sites.

4. REDELEGATION AUTHORITY. This authority may be redelegated.

5. ADDITIONAL REFERENCES.

a. Section 104(d)(3) of CERCLA.

b. Delegation 14-10-A, "State Technical Assistance."

c. Directives issued by the Assistant Administrator for Solid Waste and Emergency Response

d. State Participation in the Superfund Program, February, 1984, Volumes I and II as amended.

REDELEGATION OF AUTHORITY

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA)

R-14-16. Demand Letters

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to prepare, sign and issue demand letters to responsible parties.

2. TO WHOM REDELEGATED. The Director of the Office of Waste Programs Enforcement.

3. REDELEGATION AUTHORITY. This authority may be redelegated.

4. ADDITIONAL REFERENCES.

a. Sections 104, 106, 107, 109, 113, and 122 of CERCLA.

b. Delegation 14-16, "Demand Letters."

c. All applicable Agency guidance and directives.

REDELEGATION OF AUTHORITY

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA)

R-14-19. Contractor Indemnification

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to approve the indemnification of response action contractors. This authority is to include authorizing payments.

2. TO WHOM REDELEGATED. The Director of the Office of Waste Programs Enforcement (OWPE) and the Director of the Office of Emergency and Remedial Response (OERR).

3. LIMITATIONS. Authority to indemnify enforcement contractors is delegated to the Director, OWPE. Consultation with the Director, OERR is required on the decision to indemnify and concurrence by the Director, OERR is required on authorization of payments (use of Fund monies). Authority to indemnify all contractors doing work to support OERR remedial and removal program activities is delegated to the Director, OERR.

4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

5. ADDITIONAL REFERENCES.

a. Section 119 of CERCLA.

b. Delegation 14-19, "Contractor Indemnification."

c. Delegation of contract award authority is covered in Delegation 1-2, "Appointment of Designated Agency Procurement Executive," in Chapter 1 of the Delegations Manual.

REDELEGATION OF AUTHORITY

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-21. Agreements with other Federal Agencies

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA): to consult with agencies, departments, and instrumentalities regarding investigations and studies of federal facilities conducted under section 120(e)(1); to review the plans for and results of such investigations and studies; and to enter into an agreement with the head of the department, agency or instrumentality for completion by the department, agency or instrumentality of all necessary response actions at the Federal facility.

2. TO WHOM REDELEGATED. The Director of the Office of Waste Programs Enforcement (OWPE).

3. LIMITATIONS.

a. The Director, OWPE, must obtain the concurrence of the Assistant Administrator for Enforcement and Compliance Monitoring or designee on agreements under section 120 with other Federal departments, agencies, or instrumentalities at sites where viable non-federal potentially responsible parties are identified.

b. In the signing of such agreements, the level of the signing EPA Headquarters official will be equivalent to the level of the co-signing party.

4. REDELEGATION AUTHORITY. The Director, OWPE may not redelegate authority to enter into agreements for completion of remedial actions, and may not redelegate other authorities below the Division Director level.

5. ADDITIONAL REFERENCES:

a. Section 120 of CERCLA

b. Delegation 14-21, "Agreements with other Federal Agencies."

c. Applicable Agency guidance and directives.

REDELEGATION OF AUTHORITY

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-25. Notification of Trustees

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to notify appropriate Federal and State natural resource trustees of potential damages to natural resources resulting from releases of hazardous substances, pollutants, or contaminants, and to coordinate assessments, investigations, and planning with such trustees. To notify these trustees of negotiations under section 122(j)(1) related to such release, and to receive notice of designation of State trustees under section 107(f)(2)(b).

2. TO WHOM REDELEGATED. The Director of the Office of Waste Programs Enforcement (OWPE) and the Director of the Office of Emergency and Remedial Response (OERR).

3. LIMITATIONS. Authority is delegated to the Director, OERR for Fund-lead sites and to the Director, OWPE for enforcement-lead sites.

4. REDELEGATION AUTHORITY. This authority may be redelegated.

5. ADDITIONAL REFERENCES.

a. Sections 104(b)(2), 107(f)(2)(B), and 122(j)(1) of CERCLA

b. Delegation 14-25, "Notification of Trustees."

c. Applicable Agency guidance and directives

d. National Contingency Plan, 40 CFR 300.

REDELEGATION OF AUTHORITY .

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-27. Petitions for Reimbursement

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to receive, evaluate, and make determinations regarding petitions for reimbursement of the costs of abatement actions incurred in carrying out a section 106 order. This authority includes authorizing payment.

2. TO WHOM REDELEGATED. The Director of the Office of Waste Programs Enforcement (OWPE).

3. LIMITATIONS. Concurrence of the Director of the Office of Emergency and Remedial Response is required on determinations and decisions regarding authorizing payment (use of Fund monies).

4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

4. ADDITIONAL REFERENCES.

a. Section 106 of CERCLA.

b. Delegation 14-27, "Petitions for Reimbursement."

c. Applicable Agency guidance and directives.

REDELEGATION OF AUTHORITY.

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-28. Federal Agency Hazardous Waste Compliance Docket

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to establish and maintain a Federal Agency Hazardous Waste Compliance Docket.

2. TO WHOM REDELEGATED. The Director of the Office of Waste Programs Enforcement.

3. REDELEGATION AUTHORITY. This authority may be redelegated.

4. ADDITIONAL REFERENCES.

a. Section 120 of CERCLA.

b. Delegation 14-28, "Federal Agency Hazardous Waste Compliance Docket."

REDELEGATION OF AUTHORITY

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-30. Acquisition of Property

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA):

a. To determine whether real property affected by a Federal- or State - lead Fund-financed response shall be acquired;

b. To authorize the acquisition of appropriate interest in the real property.

2. TO WHOM REDELEGATED. The authority in 1.a is redelegated to the Director of the Office of Emergency and Remedial Response (OERR). The authority in 1.b is redelegated to the Director, OERR with regard to EPA acquisitions (and was delegated in Delegation 14-30 to Regional Administrators for acquisitions under cooperative agreements).

3. LIMITATIONS.

a. Before making a determination that real property shall be acquired by EPA for response action, including a removal, remedial planning activity, or remedial action, the Director, OERR must obtain the advance concurrence of the General Counsel or his/her designee. The General Counsel or designee may waive the advance concurrence requirement by memorandum.

b. Before EPA acquires an interest in real property for the purpose of a response action, including a removal, remedial planning activity, or remedial action, the Director, OERR must obtain the advance concurrence of the General Counsel or his/her designee. The General Counsel or his/her designee may waive the advance concurrence requirement by memorandum.

4. REDELEGATION AUTHORITY. The Director, OERR may redelegate authority to the Division Director level.

5. ADDITIONAL REFERENCES.

a. Section 104 of CERCLA.

b. Delegation 14-30, "Acquisition of Property."

c. 40 CFR Part 30, Federal Procurement Practices.

REDELEGATION OF AUTHORITY

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-36. Lead Contaminated Soil

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended (CERCLA), to designate one to three different metropolitan areas and to allocate among them up to $15 million for pilot program for removal, decontamination, or other action with respect to lead-contaminated soil.

2. TO WHOM REDELEGATED. The Director of the Office of Emergency and Remedial Response (OERR).

3. REDELEGATION AUTHORITY. The Director, OERR may not redelegate this authority.

4. ADDITIONAL REFERENCES.

a. Section 111(a) of CERCLA.

b. Delegation 14-36, "Lead Contaminated Soil."

c. 40 CFR 30 and 40 CFR 33, EPA grant regulations.

REDELEGATION OF AUTHORITY

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-37. Reimbursement to Local Governments

1. AUTHORITY. Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (CERCLA), to receive, evaluate, and make determinations regarding requests for reimbursement to local community authorities for expenses incurred in carrying out temporary emergency measures in response to releases or threatened releases of hazardous substances, pollutants, or contaminants. This authority is to include authorizing payment.

2. TO WHOM REDELEGATED. The Director of the Office of Emergency and Remedial Response.

3. LIMITATIONS. During the five-fiscal-year period beginning October 1, 1986, not more than 0.1 percent of the total amount appropriated from the Fund may be used for such reimbursements.

4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

5. ADDITIONAL REFERENCES.

a. Sections 111(c)(11) and 123 of CERCLA.

b. Delegation 14-37, "Reimbursement to Local Governments."

c. Agency regulations on reimbursement to local governments for temporary emergency measures.

REDELEGATION OF AUTHORITY

SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT (SARA)

R-14-38. EPA Role in Department of Defense Environmental Restoration Program

1. AUTHORITY. Pursuant to Title 10, United States Code, Chapter 160, as amended by Section 211 of the Superfund Amendments and Reauthorization Act of 1986 (SARA).

a. To provide consultation to the Secretary of Defense or his/her designee(s) to carry out a program of environmental restoration at facilities under his/her jurisdiction.

b. To provide cooperation and consultation to the Secretary of Defense or his/her designee(s) to carry out a program of research, development and demonstration with respect to hazardous wastes.

c. To receive and comment on notices of release and proposals for response actions under Chapter 160, § 2705, Department of Defense environmental restoration activities.

2. TO WHOM REDELEGATED. The authority in 1.a and 1.c is redelegated to the Director of the Office of Waste Programs Enforcement (OWPE). The authority in 1.b is redelegated to the Director of the Office of Program Management and Technology.

3. LIMITATIONS.

a. The Director, OWPE will consult with the Director of the Office or Emergency and Remedial Response when exercising the above authorities.

b. The Office of Emergency and Remedial Response (OERR) will provide consultation to the Department of Defense (coordinated with OWPE) on program and project implementation with respect to OERR guidance documents.

4. REDELEGATION AUTHORITY. The above authorities may be redelegated.

5. ADDITIONAL REFERENCES.

a. Section 211 of SARA.

b. Delegation 14-38, "EPA Role in Department of Defense Environmental Restoration Program."

c. Title 10, United States Code, Chapter 160, Sections 2701, 2702, 2704, and 2705 ("Armed Forces, Environmental Restoration").

REDELEGATION OF AUTHORITY

SOLID WASTE DISPOSAL ACT (SWDA)

R-8-33. Selection and Performance of Federal Corrective Actions at Leaking Underground Storage Tanks

1. AUTHORITY. Pursuant to Subtitle I of the Solid Waste Disposal Act as amended (SWDA), to determine the necessity of and to select Federal corrective actions at leaking underground storage tanks containing petroleum, to enter property and to perform such corrective actions.

2. TO WHOM REDELEGATED. The Director of the Office of Emergency and Remedial Response.

3. LIMITATIONS. The Director, Office of Emergency and Remedial Response, must obtain the advance concurrence of the Director, Office of Underground Storage Tanks, and must consult with the Director, Office of Waste Programs Enforcement.

4. REDELEGATION AUTHORITY. The Director, Office of Emergency and Remedial Response, may not redelegate this authority.

5. ADDITIONAL REFERENCES.

a. Superfund Removal directives.

b. Section 9005(a) of SWDA.

c. Section 9003(h) of SWDA.

d. Delegation 8-33, "Selection and Performance of Federal Corrective Actions at Leaking Underground Storage Tanks."

e. UST corrective action procedures.

f. "Underground Storage Tank Corrective Action Technologies," EPA/625/6-87-015, January 1987.

REDELEGATION OF AUTHORITY

TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT
(TITLE III of SARA)
"Emergency Planning and Community Right to Know Act"

R-22-3. Administrative Enforcement Actions

1. AUTHORITY. To take any administrative enforcement action under Title III of the Superfund Amendments and Reauthorization Act (SARA) including but not limited to issuing compliance orders, issuing warning letters or other notices, conducting hearings and representing the Agency in such hearings, assessing and collecting penalties, and issuing subpoenas.

2. TO WHOM REDELEGATED. The Director of the Office of Waste Programs Enforcement.

3. LIMITATIONS.

a. The Director, Office of Waste Program Enforcement (OWPE), may exercise this authority only in regard to sections 302, 303, 304, 311, 312, 322, and 323 of Title III of SARA, and must notify the appropriate Regional Administrator when exercising this authority.

b. The Director, OWPE must consult with the Assistant Administrator for Enforcement and Compliance Monitoring or designee when conducting hearings, representing the Agency at such hearings, and issuing subpoenas, unless such consultation is waived by memorandum.

4. REDELEGATION AUTHORITY. This authority may be redelegated.

5. ADDITIONAL REFERENCES.

a. Title III of SARA, Section 325.

b. Delegation 22-3, "Administrative Enforcement Actions."

REDELEGATION OF AUTHORITY.

TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT
(TITLE III OF SARA)
"Emergency Planning and Community Right to Know Act"

R-22-7. Trade Secrets

1. AUTHORITY. Pursuant to section 322 of Title III of the Superfund Amendments and Reauthorization Act (SARA):

a. To receive trade secret information under section 322(a) of SARA.

b. To accept petitions for disclosure of trade secret information and to make determinations regarding sufficiency of substantiations and regarding trade secrecy under section 322(d).

2. TO WHOM REDELEGATED. The authority in paragraphs 1.a and 1.b is redelegated to the Director of the Preparedness Staff with regard to sections 303, 311, and 312 of Title III of SARA.

3. LIMITATIONS. The Director, Preparedness Staff will consult with Regional Administrators when exercising this authority, as needed on a site-specific basis.

4. REDELEGATION AUTHORITY. This authority may not be redelegated.

5. ADDITIONAL REFERENCES.

a. Section 322 of SARA.

b. Delegation 22-7, "Trade Secrets."

Attachment B

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA)

R-14-1-A. Selection and Performance of Removal Actions Costing Up to $2,000,000

1. AUTHORITY. To concur with Regional Administrators' decisions prior to initiation of a removal action at non-NPL sites where the proposed action is on the List of Nationally Significant or Precedent-Setting Removal Action Categories.

2. DESIGNEE. The Director of the Office of Emergency and Remedial Response.

3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

4. LIMITATIONS. The Director of the Office of Emergency and Remedial Response may exercise this authority only with regard to concurrences. The authority to nonconcur is retained by the Assistant Administrator for Solid Waste and Emergency Response or designee.

5. ADDITIONAL REFERENCES.

a. Sections 104, 121(d), and 121(e) of CERCLA.

b. Delegation 14-1-A, "Selection and Performance of Removal Actions Costing Up to $2,000,000."

c. National Contingency Plan, 40 CFR 300.

d. Superfund Removal directives.

e. The $2,000,000 limit includes all extramural costs and Headquarters and Regional intramural costs, except for Section 104(b) studies and all enforcement costs.

f. List of Nationally Significant or Precedent-Setting Removal Categories.

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

R-14-10-B. State Legal Assistance

1. AUTHORITY. To receive notice from the Assistant Administrator for Enforcement and Compliance Monitoring (AA/OECM) or designee before the AA/OECM or designee exercises the authority to provide to a State or political subdivision acting on behalf of the Agency, legal assistance in the administration and enforcement of any contract (or subcontract) for response actions, and before the AA/OECM exercises the authority to request the Attorney General to intervene in any civil actions involving the enforcement of such contract or subcontract.

2. DESIGNEE. The Director of the Office of Emergency and Remedial Response and the Director of the Office of Waste Programs Enforcement.

3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

4. ADDITIONAL REFERENCES.

a. Section 104(d)(3) of CERCLA.

b. Delegation 14-10-B, "State Legal Assistance."

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-12. Civil Judicial Enforcement Actions

1. AUTHORITY. To receive notice from the Assistant Administrator for Enforcement and Compliance Monitoring or designee when a civil enforcement case is referred to the Attorney General and when an appeal is formally initiated under Delegation 14-12.

2. DESIGNEE. The Director of the Office of Waste Programs Enforcement.

3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

4. ADDITIONAL REFERENCES.

a. Memorandum of Understanding between the Agency and the Department of Justice.

b. Sections 104, 106, 107, 109, and 122 of CERCLA.

c. Delegation 14-12, "Civil Judicial Enforcement Actions."

d. See delegation 14-13-C, entitled "Emergency TROs," for Regional Administrators' authority to make direct referrals of requests for emergency CERCLA Temporary Restraining Orders.

e. All applicable Agency guidance and directives.

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-13-C. Emergency TROs

1. AUTHORITY. To receive notice from the Assistant Administrator for Enforcement and Compliance Monitoring or delegatee and Regional Administrators when requests for emergency Temporary Restraining Orders are referred to the Attorney General.

2. DESIGNEE. The Director of the Office of Waste Programs Enforcement.

3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

4. ADDITIONAL REFERENCES.

a. Memorandum of Understanding between the Agency and the Department of Justice.

b. Sections 106(a), 106(b) and 107 of CERCLA.

c. Delegation 14-13-C, "Emergency TROs."

d. For referral of other civil actions under CERCLA, see Delegation 14-12, "Civil Judicial Enforcement Actions."

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

R-14-14-A. Determinations of Imminent and Substantial Endangerment

1. AUTHORITY. To consult with Regional Administrators on determinations of imminent and substantial endangerment to public health or welfare or the environment.

2. DESIGNEE. The Director, Office of Waste Programs Enforcement (OWPE).

3. LIMITATIONS. The Director of the Office of Emergency and Remedial Response must be notified when such consultation occurs.

4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

5. ADDITIONAL REFERENCES.

a. Section 106(a) of CERCLA.

b. Delegation 14-14-A, "Determinations of Imminent and Substantial Endangerment."

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

14-14-B. Administrative Actions Through Unilateral Orders

1. AUTHORITY. To consult with Regional Administrators on their administrative actions, including, but not limited to, their issuance of such unilateral orders as may be necessary to protect public health and welfare and the environment, under Delegation 14-14-B.

2. DESIGNEE. The Director of the Office of Waste Programs Enforcement.

3. LIMITATIONS. The Director of the Office of Emergency and Remedial Response must be notified when such consultation occurs.

4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

5. ADDITIONAL REFERENCES.

a. Sections 104, 106, and 122 of CERCLA.

b. Delegation 14-14-B, "Administrative Actions Through Unilateral Orders."

c. Applicable Agency guidance and OSWER directives.

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

R-14-14-C. Administrative Actions Through Consent Orders

1. AUTHORITY. To exercise advance concurrence on Regional Administrators' administrative actions, including, but not limited to, the issuance of consent orders, under Delegation 14-14-C, and to waive such advance concurrence by memorandum.

2. DESIGNEE. The Director of the Office of Waste Programs Enforcement.

3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

4. LIMITATIONS. The Director of the Office of Waste Programs Enforcement may exercise this authority only with regard to concurrences. The authority to nonconcur is retained by the Assistant Administrator for Solid Waste and Emergency Response designee.

5. ADDITIONAL REFERENCES.

a. Sections 104, 106, and 122 of CERCLA.

b. Delegation 14-14-C, "Administrative Actions Through Consent Orders."

c. All applicable Agency guidance and directives.

d. Authority to enter into or exercise Agency concurrence authority for non-judicial cost recovery agreements or administrative orders is delegated in 14-14-D, "Cost Recovery Non-Judicial Agreements and Administrative Consent Orders."

e. Authority to enter into or exercise Agency concurrence authority in de minimis settlements under CERCLA Section 122(g) is delegated in Delegation 14-14-E, "De Minimis Settlements."

f. Memorandum dated February 2, 1984 from Lee Thomas to Regional Administrators on waiver of advance Headquarters' concurrence on some Administrative orders.

g. Memorandum dated January 3, 1985 from Gene Lucero to Regional Administrators on waiver of advance concurrence requirements for certain consent administrative orders.

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

R-14-14-D. Cost Recovery Non-Judicial Agreements and Administrative Consent Orders

1. AUTHORITY. To consult with Regional Administrators on settlements under Delegation 14-14-D where the total response costs at the facility exceed $500,000 (excluding interest) and the settlement compromises a claim of the United States, and to waive such consultation by memorandum.

2. DESIGNEE. The Director of the Office of Waste Programs Enforcement.

3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

4. ADDITIONAL REFERENCES.

a. Sections 104, 107, and 122 of CERCLA.

b. Delegation 14-14-D, "Cost Recovery Non-Judicial Agreements and Administrative Consent Orders."

c. All applicable Agency guidance and directives.

d. Authority to enter consent orders for administrative actions is delegated in 14-14-C, "Administrative Actions Through Consent Orders."

e. Authority to enter into or exercise Agency concurrence authority in de minimis settlements under CERCLA Section 122(g) is delegated in Delegation 14-14-E, "De Minimis Settlements."

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION AND LIABILITY ACT (CERCLA)

R-14-18-A. Alternative Treatment Technology Research,
Development, Demonstration, and Training

1. AUTHORITY. To concur in advance on the decision of the Assistant Administrator for Research and Development or delegatee to undertake technology demonstrations.

2. DESIGNEE. The Director of the Office of Program Management and Technology (OPMT).

3. LIMITATIONS. The Director, OPMT will consult with the Director of the Office of Emergency and Remedial Response before exercising the above authority.

4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

5. ADDITIONAL REFERENCES.

a. Section 311(b) of CERCLA.

b. Delegation 14-18-A, "Alternative Treatment Technology Research, Development, Demonstration, and Training

c. SITE Program Strategy.

d. SITE Program Operations Plan.

REDELEGATION OF AUTHORITY TO EXERCISE CONCURRENCE, TO CONSULT OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-24. Grants for Technical Assistance

1. AUTHORITY. To exercise advance concurrence on Regional Administrators' waiver of the limit of $50,000 per grant recipient under CERCLA section 117(e)(2), and to waive such advance concurrence by memorandum.

2. DESIGNEE. The Director of the Office of Emergency and Remedial Response.

3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

4. ADDITIONAL REFERENCES.

a. Section 117(e) of CERCLA.

b. Delegation 14-24, "Grants for Technical Assistance."

c. Agency grant regulations, 40 CFR 30 and 40 CFR 33.

d. Agency regulations under section 117(e).

e. The authority to execute assistance agreements is delegated in Delegation 1-14.

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-26. Federal Lien

1. AUTHORITY. To receive notice from Regional Administrators when they file notice and assert Federal and maritime liens under Delegation 14-26.

2. DESIGNEE. The Director of the Office of Waste Programs Enforcement.

3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

4. ADDITIONAL REFERENCES.

a. Sections 107(l) and (m) of CERCLA.

b. Delegation 14-26, "Federal Lien."

c. Delegation 14-12, "Civil Judicial Enforcement Actions."

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND LIABILITY ACT (CERCLA)

R-14-30. Acquisition of Property

1. AUTHORITY. To exercise advance concurrence on Regional Administrators' determination that real property affected by a Federal- or State-lead Fund-financed response (including a removal, remedial planning activity, or remedial action) shall be acquired, and to exercise advance concurrence on Regional Administrators' authorization of property acquisition through a cooperative agreement for response action. To waive such advance concurrence by memorandum.

2. DESIGNEE. The Director of the Office of Emergency and Remedial Response.

3. LIMITATIONS. Consultation required with the General Counsel, whose advance concurrence with Regional Administrators is also required.

4. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

5. ADDITIONAL REFERENCES.

a. Section 104 of CERCLA.

b. Delegation 14-30, "Acquisition of Property."

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-31. Administrative Penalty Actions

1. AUTHORITY. To receive notice from Regional Administrators of determinations of violations under CERCLA section 109, assessment of penalties, issuance of notices, orders or complaints, and the negotiation and signing of consent orders of settlements under section 109 between the Agency and respondents.

2. DESIGNEE. The Director of the Office of Waste Programs Enforcement.

3. REDELEGATION AUTHORITY. This authority may be redelegated to the Division Director level.

4. ADDITIONAL REFERENCES.

a. All applicable Agency guidance and directives.

b. Delegation 14-31, "Administrative Penalty Actions."

c. Section 109 of CERCLA.

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

THE COMPREHENSIVE ENVIRONMENTAL RESPONSE,
COMPENSATION, AND LIABILITY ACT (CERCLA)

R-14-35. List of Hazardous Substances and Toxicological Profiles

1. AUTHORITY. To consult with Assistant Administrator for Pesticides and Toxic Substances or delegatee when preparing or revising the list of hazardous substances and when developing guidelines for the development of toxicological profiles for such substances under Delegation 14-35.

2. DESIGNEE. The Director of the Office of Emergency and Remedial Response.

3. REDELEGATION AUTHORITY. This authority may be redelegated.

4. ADDITIONAL REFERENCES.

a. Sections 104(i)(2) and (3) of CERCLA.

b. Delegation 14-35, "List of Hazardous Substances and Toxicological Profiles."

*[Note that CERCLA section 104(j) is printed in the middle of Section 104(i). Sections 104(i)(2) and (3) can be found on pages 24-25 of Senate Print 99-217, "The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) (P.L. 96-510), as amended by the Superfund Amendments and Reauthorization Act of 1986 (P.L. 99-499)," December 1986.]

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT (SARA)

R-14-38. EPA Role in Department of Defense Environmental Restoration Program

1. AUTHORITY. To consult with the Assistant Administrator for Research and Development or delegatee when consultation is provided to the Secretary of Defense to carry out a program of research, development and demonstration with respect to hazardous wastes.

2. DESIGNEE. The Director of the Office of Program Management and Technology.

3. REDELEGATION AUTHORITY. This authority may be redelegated.

4. ADDITIONAL REFERENCES.

a. Section 211 of SARA.

b. Delegation 14-38, "EPA Role in Department of Defense Environmental Restoration Program."

c. Title 10, United States Code, Chapter 160, Sections 2701, 2702, 2704, and 2705 ("Armed Forces, Environmental Restoration").

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT
(TITLE III of SARA)
"Emergency Planning and Community Right to Know Act"

R-22-1. Civil Judicial Enforcement Actions

1. AUTHORITY. To receive notice from the Assistant Administrator for Enforcement and Compliance Monitoring (AA/OECM) or delegatee when the Attorney General is requested to appear and represent the Agency in any civil enforcement action or to intervene in any civil enforcement action pursuant to Title III of the Superfund Amendments and Reauthorization Act (SARA); to receive notice from the AA/OECM when the Attorney General is requested to decline to prosecute a previously referred civil enforcement action, and when the Attorney General is requested to initiate an appeal and represent the Agency in such an appeal.

2. DESIGNEE. The Director of the Office of Waste Programs Enforcement.

3. REDELEGATION AUTHORITY. This authority may be redelegated.

4. ADDITIONAL REFERENCES.

a. Title III of SARA, Section 325.

b. Delegation 22-1, "Civil Judicial Enforcement Action."

REDELEGATION OF AUTHORITY TO
EXERCISE CONCURRENCE, TO CONSULT
OR TO RECEIVE NOTICE

TITLE III OF THE SUPERFUND AMENDMENTS AND REAUTHORIZATION ACT
(TITLE III of SARA)
"Emergency Planning and Community Right to Know Act"

R-22-3. Administrative Enforcement Actions

1. AUTHORITY. To consult with Regional Administrators in advance of their exercising administrative enforcement authority under SARA Title III, Sections 302, 303, 304, 311, 312, 322, and 323; and to waive such advance consultation by memorandum.

2. DESIGNEE. The Director of the Office of Waste Programs Enforcement.

3. REDELEGATION AUTHORITY. This authority may be redelegated.

4. ADDITIONAL REFERENCES.

a. Title III SARA, Section 325.

b. Delegation 22-3, "Administrative Enforcement Actions."

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